IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 2379 of 2005
Date of decision : 4.12.2006

Niranjan Singh

.....Petitioner.

Versus

Harmel Singh

.....Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.G.S. Punia,Advocate
for the petitioner.

Mr. Madan Sandhu, Advocate
for the respondent.

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VINOD K. SHARMA,J.(ORAL)

Present revision petition has been filed against the order dated 7.2.2005 passed by the learned Civil Judge (Jr. Divn.), Jagraon declining the cross-examination of Pws whose affidavit has been tendered in evidence.

On 27.7.2004 the counsel for the petitioner pleaded no instructions and accordingly exparte proceedings were ordered against the defendant and no cross-examination of PWs could be conducted. That on an application moved by the defendant, the petitioner was granted a chance to cross-examine the witnesses subject to payment of Rs. 1000/- as costs and the case was accordingly adjourned to 2.11.2004. On 2.11.2004 the costs were accepted by the counsel for the plaintiff and the case was adjourned to 7.2.2005 for cross-examination of the Pws. On the said date, the impugned

order has been passed. In view of the acceptance of the costs it was not open to the plaintiff to challenge the order dated 21.10.2004 vide which permission has been granted to cross-examine the witnesses whose affidavits treated to be tendered in examination-in-chief were taken on record. In view of the said order the learned trial Court was not right in coming to the conclusion that the opportunity of cross-examination was in fact given to the petitioner and it was recorded as nil. As a matter of fact, it was on account of pleading no instructions by the counsel that no cross-examination was conducted. In view of the subsequent orders it was not open to the trial Court to deny the cross-examination of the witnesses.

Accordingly,revision is allowed, the impugned order is set aside and the learned trial Court is directed to give an opportunity to the petitioner to cross-examine the witnesses.

December 4,2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**